IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.1280 OF 2005

High Technology Plastics (I) Pvt.Ltd.
(formerly known as Philips India Ltd.) ..Petitioner.

V/s.

The Union of India & Ors. ..Respondenta.

Mr.Prakash Shah i/b. M/s. D.S.K. Legal for petitioner.

Mr.Y.S.Bhate with Y.R.Mishra for respondents.

CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 10TH MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the petitioner and the respondents. Rule. Rule returnable forthwith.

2. By this petition the petitioner is challenging the order dated 16th February, 2005 passed by the Commissioner (Appeals), Central Excise directing the petitioner to deposit a sum of Rs.20 lacs by way of pre - deposit.

3. The learned counsel for the petitioner contended that in the facts and circumstances of the case

the Commissioner (Appeals) ought not to have directed any pre-deposit especially in the light of the Board Circular dated 16th July, 2002 and also in view of the order in original dated 6th September, 2004 in petitioner's own case. In view of the aforesaid Circular and the aforesaid order in original, the direction of pre-deposit of Rs.20 lacs is not tenable and hence we quash and set aside the said order of pre-deposit and direct the Commissioner (Appeals), Central Excise to hear the appeal strictly on its own merit in accordance with the law, as expeditiously as possible.

4. Pending the hearing and final disposal of the aforesaid appeal, the respondents are restrained from adopting any coercive action to recover the amount.

5. Writ Petition stands disposed of in the above terms.

(S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)